

FRIDAY, JULY 6, 2001

The hour of 2:00 p.m. having arrived, a quorum of the House was not detected.

Article II, Section 11 of the Constitution of the State of Tennessee provides that less than a quorum may adjourn the House from day to day.

A majority of the members present requested that the House recess until 10:00 a.m., Saturday, July 7, 2001.

RECESS MOTION

Without objection, the House stood in recess until 10:00 a.m., Saturday July 7, 2001.

SATURDAY, JULY 7, 2001

SIXTY-FIRST LEGISLATIVE DAY

The House met at 10:00 a.m. and was called to order by Mr. Speaker Naifeh.

The proceedings were opened with prayer by John Robbins, South Main Street Baptist Church, Jamestown, Tennessee.

Representative Windle led the House in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present.....98

Representatives present were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Williams, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 98.

EXCUSED

The Speaker announced that the following member(s) has/have been excused, pursuant to request(s) under **Rule No. 20**:

Representative Pinion; family illness.

SPONSORS ADDED

Under **Rule No. 43**, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

House Bill No. 1781: Rep(s). Davidson as prime sponsor(s).

House Bill No. 1873: Rep(s). Cole (Dyer) as first prime sponsor(s).

MESSAGE FROM THE SENATE

July 7, 2001

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 466 and 467; adopted for concurrence.

RUSSELL A. HUMPHREY, Chief Clerk.

Senate Joint Resolution No. 466 -- Memorials, Death - Dr. Walter Douglas Hankins. by *Crowe.

Senate Joint Resolution No. 467 -- Memorials, Death - Carrie C. Repass Warrick. by *Crowe.

MESSAGE FROM THE SENATE

July 7, 2001

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 463; adopted for concurrence.

RUSSELL A. HUMPHREY, Chief Clerk.

Senate Joint Resolution No. 463 -- Memorials, Personal Achievement - Honor Barbara Riggs, 2001 Tennessee Mother of the Year. by *Atchley.

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DELAYED BILLS REFERRED

Pursuant to **Rule No. 77**, having been prefiled for introduction, House Bill(s) No(s). 2040, was/were referred to the Delayed Bills Committee.

House Bill No. 2040 -- Appropriations - Removes from appropriations act provisions prohibiting disbursement of BEP funds and reduction in higher education appropriations. by *Winningham. (*SB2002 by *McNally, *Crowe, *Atchley, *Carter, *Graves, *Burks, *Trail, *Crutchfield)

SENATE BILLS TRANSMITTED

On motion, the Senate Bills listed below, transmitted to the House, were held on the Clerk's desk pending third consideration of the companion House Bill as noted:

Senate Bill No. 1668 -- Child Custody and Support - Authorizes genetic testing of persons other than parent and child to establish parentage; authorizes department of human services contractors to file for parentage test; makes numerous changes regarding provision of health insurance under child support order. Amends TCA Title 8; Title 24; Title 36; Title 37; Title 45; Title 68 and Title 71. by *Person, *Clabough. (*HB1391 by *Scroggs, *Boyer)

HOUSE BILLS ON SECOND CONSIDERATION

On motion, bills listed below passed second consideration and were referred by the Speaker to Committee or held on the Clerk's desk as noted:

House Bill No. 2039 -- Tennessee Regulatory Authority -- House Finance, Ways and Means Committee

REPORTS FROM STANDING COMMITTEES

The committees that met on **July 6, 2001**, reported the following:

FINANCE, WAYS AND MEANS

The Finance, Ways and Means Committee recommended for passage: House Bill(s) No(s). 1781 with amendments. Under the rules, each was transmitted to the Calendar and Rules Committee.

REPORTS FROM STANDING COMMITTEES

The committees that met on **July 7, 2001**, reported the following:

COMMITTEE ON CALENDAR AND RULES

The Calendar and Rules Committee met and set the following bill(s) on the **Supplemental Regular Calendar** for **July 7, 2001**: House Bill(s) No(s). 1781.

CONSENT CALENDAR

Senate Joint Resolution No. 463 -- Memorials, Personal Achievement - Honor Barbara Riggs, 2001 Tennessee Mother of the Year. by *Atchley.

Rep. Armstrong moved that all members voting aye on Senate Joint Resolution No. 463 be added as sponsors, which motion prevailed.

Pursuant to **Rule No. 50**, Rep. Phillips moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, all Senate and House Bills on the Consent Calendar be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Consent Calendar be concurred in, which motion prevailed by the following vote:

Ayes	97
Noes	0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Williams, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 97.

A motion to reconsider was tabled.

REGULAR CALENDAR

***House Bill No. 2020** -- Utilities, Utility Districts - Deletes current statutory requirement for customer election to approve increased per diem for commissioners of water and sewer utility district in Scott County. Amends TCA Section 7-82-308(f). by *Winningham, *Windle. (SB1986 by *Davis L)

Further consideration of House Bill No. 2020 previously considered on June 29, 2001 and July 5, 2001, at which time it was reset for today's Calendar.

On motion, House Bill No. 2020 was held on the Clerk's desk, which motion prevailed.

SUPPLEMENTAL REGULAR CALENDAR

House Bill No. 1781 -- Taxes - Increases state sales tax by one-quarter cent effective July 1, 2001; repeals all state taxes effective July 1, 2003. Amends TCA Title 3; Title 4; Title 7; Title 8; Title 9; Title 11; Title 16; Title 18; Title 20; Title 29; Title 30; Title 31; Title 32; Title 35; Title 36; Title 38; Title 39; Title 40; Title 43; Title 45; Title 47; Title 48; Title 49; Title 50; Title 54; Title 55; Title 56; Title 57; Title 60; Title 61; Title 62; Title 63; Title 64; Title 65; Title 66; Title 67; Title 68; Title 70 and Title 71. by *Rinks, *Fitzhugh. (*SB349 by *Cooper J, *Clabough)

Rep. Rinks moved that House Bill No. 1781 be passed on third and final consideration.

Rep. Kisber moved adoption of Finance, Ways and Means Committee Amendment No. 1 as follows:

Amendment No. 1

AMEND House Bill No. 1781 By deleting sections 1, 2, 3, and 4 in their entirety and by renumbering subsequent sections accordingly.

On motion, Finance, Ways and Means Committee Amendment No. 1 was adopted.

Rep. Davidson moved adoption of Amendment No. 2 as follows:

Amendment No. 2

AMEND House Bill No. 1781 by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-6-202(a), is amended by deleting the language "six percent (6%)", and by substituting instead the language "six and one-half percent (6.50%)".

SECTION 2. Tennessee Code Annotated, Section 67-6-203(a), is amended by deleting the language "six percent (6%)", and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202".

SECTION 3. Tennessee Code Annotated, Section 67-6-204, is amended by deleting the language "six percent (6%)" wherever it appears in subsections (a) and (c), and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202".

SECTION 4. Tennessee Code Annotated, Section 67-6-205(a), is amended by deleting the language "six percent (6%)", and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202".

SECTION 5. Tennessee Code Annotated, Section 67-6-103, is amended by adding the following new subsection:

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() Notwithstanding the provisions of this section to the contrary, all revenue generated from the increase in the rate of the state sales and use tax and the imposition of sales and use taxes on services pursuant to the provisions of this act shall be deposited in the state general fund and no funds generated from such rate increase or taxes imposed on services shall be distributed pursuant to the provisions of (a) through (f) of this section.

SECTION 6. Tennessee Code Annotated, Section 67-4-2007(a), is amended by deleting the language "six percent (6%)" and by substituting instead the language "six and one-half percent (6.5%)".

SECTION 7. Tennessee Code Annotated, Section 67-4-2015, is amended by adding the following new subsections immediately after subsection (f) and by re-lettering the remaining subsections accordingly:

() Notwithstanding any other law to the contrary, a taxpayer filing a franchise and excise tax return for a tax period ended on or after December 31, 2001, but before December 31, 2002, shall not be penalized if each of its quarterly estimated payments equal twenty-five percent (25%) of seventy percent (70%) of its final tax liability for the tax year.

() Notwithstanding any other law to the contrary, a taxpayer filing a franchise and excise tax return for a tax period ended on or after December 31, 2001, but before April 1, 2002, and that has quarterly estimated payments due before August 1, 2001, who after having timely made such payments finds that, because of amendments to the law made by the General Assembly during the 2001 session, one or more of such payments may fall below twenty-five percent (25%) of seventy percent (70%) of the final franchise and excise tax liability for the tax year, may avoid being penalized if any shortage is made up by the due date of the next quarterly payment falling due after August 1, 2001; provided, however, that in the event that all of the required quarterly payments have been timely made before August 1, 2001, the taxpayer may still avoid being penalized if any shortage is made up no later than August 15, 2001.

SECTION 8. Tennessee Code Annotated, Section 67-4-2015, is amended by adding the following language as a new subsection at the end of the Section:

() Notwithstanding any other law to the contrary, for tax years beginning on or after August 1, 2000, but before May 1, 2001, the commissioner of revenue is authorized to waive, in whole or in part, any statutory penalty assessed for the delinquent filing or deficient payment of any quarterly estimated franchise and excise tax payment due for such tax year, if in the judgment of the commissioner or the commissioner's delegate the taxpayer has acted reasonably and has made a good faith effort to comply with the statutory provisions of this section.

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SECTION 9. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 10. Sections 1-5 inclusive of this act shall take effect on August 1, 2001, the public welfare requiring it. Section 6 of this act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to all tax years ending on or after June 30, 2001. All other sections of this act shall take effect on becoming a law, the public welfare requiring it.

RECESS MOTION

Rep. Boyer moved that the House stand in recess until 11:15 a.m.

Rep. Hargett moved the previous question on the motion to recess, which motion prevailed.

RECESS MOTION

Rep. Boyer moved that the House stand in recess until 11:15 a.m, which motion prevailed by the following vote:

Ayes	50
Noes	47

Representatives voting aye were: Arriola, Baird, Beavers, Bittle, Black, Bone, Boyer, Bunch, Buttry, Clem, Cole (Carter), Davidson, Davis (Washington), Davis (Cocke), Dunn, Ford, Fraley, Garrett, Godsey, Goins, Hagood, Hargett, Harwell, Johnson, Jones S, Kent, McCord, McDaniel, McDonald, McKee, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Pleasant, Rowland, Sands, Sargent, Scroggs, Sharp, Stanley, Tidwell, Todd, Turner (Davidson), Vincent, Whitson, Winningham, Wood -- 50.

Representatives voting no were: Armstrong, Bowers, Briley, Brooks, Brown, Buck, Caldwell, Chumney, Cole (Dyer), Cooper, Curtiss, DeBerry J, DeBerry L, Ferguson, Fitzhugh, Fowlkes, Givens, Hargrove, Head, Hood, Jones U, Kisber, Langster, Lewis, Maddox, McMillan, Miller, Phelan, Phillips, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Shaw, Shepard, Tindell, Towns, Turner (Hamilton), Turner (Shelby), Walker, West, Westmoreland, White, Williams, Windle, Mr. Speaker Naifeh -- 47.

RECESS EXPIRED

The recess having expired, the House was called to order by Mr. Speaker Naifeh.

ROLL CALL DISPENSED WITH

On motion of Rep. Davidson, the roll call was dispensed with.

SUPPLEMENTAL REGULAR CALENDAR, CONTINUED

House Bill No. 1781 -- Taxes - Increases state sales tax by one-quarter cent effective July 1, 2001; repeals all state taxes effective July 1, 2003. Amends TCA Title 3; Title 4; Title 7; Title 8; Title 9; Title 11; Title 16; Title 18; Title 20; Title 29; Title 30; Title 31; Title 32; Title 35; Title 36; Title 38; Title 39; Title 40; Title 43; Title 45; Title 47; Title 48; Title 49; Title 50; Title 54; Title 55; Title 56; Title 57; Title 60; Title 61; Title 62; Title 63; Title 64; Title 65; Title 66; Title 67; Title 68; Title 70 and Title 71. by *Rinks, *Fitzhugh. (*SB349 by *Cooper J, *Clabough)

Further consideration of House Bill No. 1781 previously considered on today's Calendar at which time the House adopted Amendment(s) No(s) 1 and was on the motion to adopt Amendment(s) No(s). 2.

Rep. Rinks moved that House Bill No. 1781, as amended be passed on third and final consideration.

Rep. Davidson requested that Amendment No. 2 be placed at the heel of the Amendments.

Rep. Scroggs moved adoption of Amendment No. 3 as follows:

Amendment No. 3

AMEND House Bill No. 1781 by deleting all sections following the enacting clause and by substituting instead the following:

SECTION 1. The title of this act is the "Revenue Law of 2001".

SECTION 2. Tennessee Code Annotated, Section 67-6-102, subsection (24)(F) thereof, is amended by adding the following as new subdivisions:

() Providing mailbox rental, postal and mailing services, and on-site personal computer rental services, including rentals where the item rented may only be used on the business premises of the owner, but not including direct mail advertising services or delivering letters and parcels.

() Providing exterminating and pest control services, but not including such services sold for the purpose of aiding in the commercial production of nursery stock or food or fiber for human or animal consumption.

() Providing janitorial and other cleaning services with respect to real property used, or intended to be used, for residential purposes; including but not limited to cleaning services for the interior or exterior of buildings, carpet cleaning, chimney cleaning, drain and gutter cleaning, swimming pool cleaning and maintenance, and ventilation duct cleaning.

() Providing barber and cosmetology services; including but not limited to hair (including facial hair) styling, cutting, coloring, shaving and care services; nail care services; facials, applying make-up, and other spa services; hair removal; and body piercing.

() Providing massages, tattoos, steam baths and saunas.

() Providing services to assist customers in attaining or maintaining a desired body weight, including but not limited to counseling, menu and exercise planning, and weight and body measurement monitoring; but not including services provided by medical doctors in the normal course of the practice of medicine.

() Providing instruction in sports and recreational activities; including but not limited to, team and individual games and athletics, dance, art, drama, music, martial arts, personal training services, skydiving and flight training; but not including bona fide job training and academic instruction.

() Providing investigative, detective, guard, security or patrol services; alarm system monitoring services; armored car services and the like; guard dog services; and polygraph services.

() Providing collection services for delinquent accounts, including but not limited to collecting payments for claims and remitting payments collected, and repossessing property as the result of delinquent debts.

SECTION 3. Tennessee Code Annotated, Section 67-6-702, is amended by adding the following new subsection:

(h)(1) Notwithstanding any other provisions of this chapter to the contrary, the following services taxable by the state are exempt from the local tax levied by the provisions of this part:

() Providing mailbox rental, postal and mailing services, and on-site personal computer rental services, including rentals where the item rented may only be used on the business premises of the owner, but not including direct mail advertising services or delivering letters and parcels.

() Providing exterminating and pest control services, but not including such services sold for the purpose of aiding in the commercial production of nursery stock or food or fiber for human or animal consumption.

() Providing janitorial and other cleaning services with respect to real property used, or intended to be used, for residential purposes; including but not limited to cleaning services for the interior or exterior of buildings, carpet cleaning, chimney cleaning, drain and gutter cleaning, swimming pool cleaning and maintenance, and ventilation duct cleaning.

() Providing barber and cosmetology services; including but not limited to hair (including facial hair) styling, cutting, coloring, shaving and care services; nail care services; facials, applying make-up, and other spa services; hair removal; and body piercing.

() Providing massages, tattoos, steam baths and saunas.

() Providing services to assist customers in attaining or maintaining a desired body weight, including but not limited to counseling, menu and exercise planning, and weight and body measurement monitoring; but not including services provided by medical doctors in the normal course of the practice of medicine.

() Providing instruction in sports and recreational activities; including but not limited to, team and individual games and athletics, dance, art, drama, music, martial arts, personal training services, skydiving and flight training; but not including bona fide job training and academic instruction.

() Providing investigative, detective, guard, security or patrol services; alarm system monitoring services; armored car services and the like; guard dog services; and polygraph services.

() Providing collection services for delinquent accounts, including but not limited to collecting payments for claims and remitting payments collected, and repossessing property as the result of delinquent debts.

() Charges made for operating coin-operated laundry, drycleaning, car wash facilities, amusement devices, vending machines or public pay telephone services.

SECTION 4. Tennessee Code Annotated, Title 67, Chapter 6, Part 2, is amended by adding the following new section:

There is levied a tax at the rate of six percent (6%) of the gross charge for all services taxable under this chapter when the same are not sold but are used or consumed in this state; provided that there shall be no duplication of the tax. The use tax levied by this section shall not apply to services performed for an employer by a bona fide employee in the ordinary course of employment; provided, however, that in no case shall the use tax apply to services performed for the state, local or federal government by a bona fide employee of such government in the ordinary course of employment.

SECTION 5. Tennessee Code Annotated, Section 67-6-102(24) is amended by deleting subdivision (A) in its entirety and substituting the following:

(A) "Retail sales" or "sale at retail" means a taxable sale of tangible personal property or specifically taxable services to a consumer or to any person for any purpose other than for resale. "Retail sales" or "sales at retail" means and includes all such transactions as the commissioner, upon investigation, finds to be in lieu of sales. Any sales for resale, including those described in subdivisions (i) through (iii) below, must, however, be in strict compliance with rules and regulations promulgated by the commissioner, including use of a resale certificate. Any dealer making a sale for resale which is not in strict compliance with rules and regulations shall be personally liable for and pay the tax. Sales of tangible personal property are taxed as follows:

(i) When made to persons who use that property in providing services that are actually taxed under the provisions of this chapter, and the property is to be transferred to the customer of the purchaser either as tangible personal property or as real property, they shall be considered sales for resale.

(ii) When made to persons who use that property in providing services that are actually taxed under the provisions of this chapter, and the property is not to be transferred to the customer of the purchaser, they are not sales for resale and the person using the property in providing the service shall pay the sales or use tax on such transactions to the Tennessee vendor or use tax if no Tennessee sales tax is paid on the transaction.

(iii) When made to persons who use that property in providing services that are not actually taxed under the provisions of this chapter, they are not sales for resale, and the person using the property in providing the service shall pay the sales or use tax on such transactions to the Tennessee vendor or use tax if no Tennessee sales tax is paid on the transaction.

SECTION 6. Tennessee Code Annotated, Section 67-6-507, is amended by adding the following new subsection:

() If Tennessee sales or use tax was paid on tangible personal property subsequently transferred, as tangible personal property or real property, by a dealer to the dealer's customer as part of a service that is taxed, the dealer shall be allowed a credit in the amount of the sales or use tax paid on such transferred property against the sales tax due on the service; provided that such credit shall not be the basis of a refund to the taxpayer.

SECTION 7. Tennessee Code Annotated, Section 67-6-102, is amended in subdivision (24)(F)(v) by deleting the words and punctuation ", excluding coin-operated laundry, dry cleaning or car wash facilities,;" and is further amended in subdivision (30)(D) by deleting the words and punctuation "public pay telephone services,".

SECTION 8. Tennessee Code Annotated, Section 67-6-103, is amended by deleting subsection (f).

SECTION 9. Tennessee Code Annotated, Section 67-6-226, is amended by deleting the words and punctuation ", except such state tax shall not apply to television programming or television service charges or fees in an amount less than fifteen dollars (\$15.00) provided by a cable television service provider authorized pursuant to title 7, chapter 59, or by a provider of wireless cable television services (multipoint distribution service/multichannel multipoint distribution service) offered for public consumption".

SECTION 10. Tennessee Code Annotated, Section 67-6-204, is amended by deleting the last sentence in subsection (b).

SECTION 11. Tennessee Code Annotated, Section 67-6-329(a), is amended by deleting subdivision (21).

SECTION 12. Tennessee Code Annotated, Section 67-6-330, is amended by deleting subdivisions (A) and (B) of subsection (a)(7), and is further amended by deleting subsections (a)(3), (a)(13), (a)(16) and (a)(19).

SECTION 13. Tennessee Code Annotated, Section 67-4-506, is amended by deleting the section in its entirety.

SECTION 14. Tennessee Code Annotated, Section 67-4-507, is amended by deleting the section in its entirety.

SECTION 15. Tennessee Code Annotated, Section 67-6-330(a), is amended by deleting subdivision (10) in its entirety.

SECTION 16. Tennessee Code Annotated, Section 67-6-212(a), is amended by adding the following as a new subdivision:

() Charges made for operating any machine or device that is intended to provide the user any form of amusement, entertainment, music or game.

SECTION 17. Tennessee Code Annotated, Section 67-6-103, is amended by adding the following new subsection:

() Notwithstanding the provisions of this section to the contrary, all revenue generated from the imposition of sales and use taxes on services pursuant to the provisions of this act shall be deposited in the state general fund and no funds generated from such rate increase or taxes imposed on services shall be distributed pursuant to the provisions of (a) through (e) of this section.

SECTION 18. Tennessee Code Annotated, Section 67-4-1004(a), is amended by deleting the language "six and one-half (6 ½) mills", and by substituting instead the language "six and five hundred sixty-five thousandths (6.565) mills".

SECTION 19. Tennessee Code Annotated, Section 57-3-302(a), is amended by deleting the language "one dollar and ten cents (\$1.10)", and by substituting instead the language "one dollar and eleven cents (\$1.11)".

SECTION 20. Tennessee Code Annotated, Section 57-3-302(b), is amended by deleting the language "four dollars (\$4.00)", and by substituting instead the language "four dollars and four cents (\$4.04)".

SECTION 21. Tennessee Code Annotated, Section 57-5-201(a)(1), is amended by deleting the language "three dollars and ninety cents (\$3.90)", and by substituting instead the language "three dollars and ninety-four cents (\$3.94)".

SECTION 22. Tennessee Code Annotated, Section 57-6-104(c)(5), is amended by inserting the language "or the state privilege tax levied in Tennessee Code Annotated, Section 57-5-201" immediately following the words "excise tax" in the first sentence.

SECTION 23. Any wholesale dealers, jobbers, tobacco distributors, and retail dealers having cigarette tax stamps, affixed and unaffixed, in their possession on June 30, 2001, shall not be required to pay the additional cigarette tax levied by this act on such stamps.

SECTION 24. Tennessee Code Annotated, Section 67-6-702, is amended by deleting subsection (a)(1) in its entirety and by substituting instead the following:

(a) (1) Any county by resolution of its county legislative body or any incorporated city or town by ordinance of its governing body is authorized to levy a tax on the same privileges subject to this chapter as the same may be amended, which are exercised within such county, city or town, to be levied and collected in the same manner and on all such privileges but not to exceed two and three-fourths percent (2 $\frac{3}{4}$ %); provided, that the tax levied shall apply only to the first seven thousand five hundred dollars (\$7,500) on the sale or use of any single article of personal property. Notwithstanding any provision of this chapter to the contrary, all revenue generated from the tax levied in this subdivision shall be allocated as follows:

(A) revenue generated from the first one thousand six hundred dollars (\$1,600) on the sale or use of any single article shall be distributed to the local government levying the tax as otherwise provided in this part, and

(B) all other revenue generated on the sale or use of any single article in excess of one thousand six hundred dollars (\$1,600) shall be deposited in the state general fund.

SECTION 25. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding the following new part:

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67-4-2201. This act shall be known and may be cited as the "Service Industry Business Privilege Tax Act of 2001."

67-4-2202. As used in this part:

(1) "Commissioner" means the commissioner of revenue;

(2) "Department" means the department of revenue;

(3)(A) "Gross Revenue," "Total Gross Revenue," "Revenue," and "Total Revenue" shall mean any and all amounts, receipts, credits, property or consideration that are received, derived, billed or due by contract or otherwise, for the performance of any taxable service.

(B) Gross revenue shall include the entire charge, or charges, made for taxable services, including incidental services, other incidental work, or incidental tangible personal property used to provide the taxable service, even though such charges may be stated separately from the charge for the taxable services. Such revenue, whether valued or paid in money, or otherwise, shall include any deductions authorized by any other law but not authorized by this part.

(C) The failure of a taxpayer to separately state charges for items that are not incidental to the sale of the taxable service performed shall cause all such charges to be subjected to the tax levied by this part.

(D) Gross revenue shall also include the value of any rebates received by a customer and assigned by the customer to the taxpayer to apply to the purchase price of taxable services, or amounts received by a taxpayer from any source as the result of any particular sale of taxable services.

(E) Except as provided in subitem (F)(ii), gross revenue shall also include revenue from government contracts or programs or payments from non-profit entities.

(F) Gross revenue shall not include the following:

(i) Receipts that are the basis for tax levied under the provisions of Title 67, Chapter 6;

(ii) Payments received by health care providers pursuant to TennCare or any successor to TennCare under Title 71, Chapter 5;

(iii) Amounts received from an affiliated entity for services performed exclusively for the affiliated entity. For purposes of this subitem, entities are affiliated if either entity, directly or indirectly, wholly owns the other, or if both entities are wholly owned, directly or indirectly, by a common parent; and

(iv) Amounts paid to subcontractors or materialmen in the ordinary course of business and not for the purpose of avoiding the tax levied under this part.

(4) "Internal Revenue Code" means Title 26 of the United States Code in effect during the month in which gross revenue is determined under this part;

(5) "Not-for-profit" means any person described in Sections 401, 408, 408A, 409, 501, 526, 527, 528, 529, or 530 of the Internal Revenue Code, as amended.

(6) "Service industry business" means any for profit or not-for-profit joint venture, corporation, subchapter S corporation, limited liability company, professional limited liability company, registered limited liability partnership, professional registered limited liability partnership, limited partnership, cooperative, joint-stock association, business trust, regulated investment company, real estate investment trust, state chartered or national bank, state or federally chartered savings and loan association, insurance company regulated under Title 56, and any other business organization or entity that is performing any part of a taxable service in Tennessee that does not qualify for an "m" number under Title 67, chapter 6; provided, that any officer, director, principal, shareholder, employee, partner or member of a service industry business subject to the tax levied by this part shall not be subject to the services gross receipts tax except as provided in Section 67-4-2210(a). "Service industry business" does not mean individuals, sole proprietorships, or general partnerships.

67-4-2203. (a) The tax herein levied is for state purposes only and no county or municipality or taxing district shall have power to levy any like tax; provided, however, that nothing in this part shall be construed or interpreted to repeal or to affect any tax now in effect.

(b) The tax shall be levied upon, and collectible from, the service industry business engaging in a taxable business activity. The tax herein levied upon service industry businesses shall not be construed as a tax upon the purchasers or customers. If a taxpayer lists service business gross revenue tax as a separate charge to the customer, such charge shall be added to the total gross receipts subject to tax under this part.

(c) Nothing in this part shall amend or affect the application of the tax levied under Title 67, Chapter 6, and payment of the tax levied by this part on any gross revenue shall not be a basis for an exemption from sales and use taxes.

67-4-2204. (a) The supervision and collection of the tax levied by this part shall be under the direction of the commissioner, and the commissioner has the authority and power to prescribe forms upon which taxpayers liable for the tax shall make reports of the facts and information required to enable the commissioner to ascertain the correctness of the gross revenue tax reported and paid by such taxpayers. Failure of any taxpayer to secure such forms shall not relieve such taxpayer from the payment of the tax at the time and in the manner herein provided.

(b) A single service industry business gross revenue tax return shall be filed by each legal entity subject to tax under this part, and the return shall include taxable gross revenue from all business locations of the one taxable business entity. Combined or consolidated service business gross revenue tax returns that include more than one (1) legal entity are not permitted.

(c) All service industry businesses subject to the tax levied by this part shall register with the department by completing and filing the registration information form prescribed by the department. Such form shall be filed with the department no later than October 1, 2001 or within fifteen (15) days after the date the person becomes subject to the tax, whichever date occurs last. No service industry business subject to the tax levied by this part shall provide services in this state unless and until it has registered with the department as provided herein; provided, that any taxable business entity that is in existence at the time this part becomes law may continue to provide services without registration until October 1, 2001, by which date it must have registered in order to continue providing such services. The fact that a taxable business entity has not registered shall not relieve it from filing service industry business gross revenue tax returns and paying the tax levied by this part.

67-4-2205. (a) Any taxable service performed wholly or partly in Tennessee by a service industry business is hereby declared to be a taxable privilege subject to the tax levied by this part. Every service industry business now or hereafter performing in this state any part of a taxable service, as a recompense for the protection of its local activities and as compensation for the benefits it receives from performing such service in Tennessee, shall pay to the commissioner the tax levied by this part.

(b) The tax levied by this part shall apply to gross revenue for services performed on or after January 1, 2002. If any taxable gross revenue is for services performed partly before and partly after January 1, 2002, the amount of tax due with respect to such gross revenue shall be measured by the ratio that the time spent in performing such services after January 1, 2002, bears to the total time spent in performing such services.

(c) The tax levied by this part shall apply to taxpayers whose business is being conducted by a receivership or trusteeship appointed by any court of competent jurisdiction and shall continue to accrue until such time as the taxpayer has been actually and legally dissolved or ceases to perform taxable services. Nothing in this provision shall be construed to conflict with federal bankruptcy law.

(d) In the event a taxpayer should fail to file a return, the tax imposed by this part shall be levied in the amount of the greater of fifty dollars (\$50.00) per month or the amount that would be due if the taxpayer had filed a return and the tax due had been computed in accordance with Section 67-4-2206.

67-4-2206. There is hereby imposed a tax on each service industry business for the period covered by the required business service gross revenue tax return as follows:

(a) One percent (1%) of gross revenue; and

(b) One percent (1%) of net revenue taxed at a rate of less than six percent (6%) under Title 67, Chapter 6, Part 2. For purposes of this subsection, "net revenue" means total gross revenue minus the product of (1) a fraction, the numerator of which is the rate of state sales and use tax applied to such revenue and the denominator of which is the rate provided in Section 67-6-202(a); and (2) total gross revenue.

(c) A credit shall be allowed against the tax imposed in subsections (a) and (b) in the amount of:

(1) The total tax paid by each service industry business under Title 67, Chapter 4, Parts 20 and 21;

(2) Premium taxes paid by any service industry business regulated under Title 56;

(3) Occupation tax paid under Title 67, Chapter 4, Part 17, including the sum of such taxes paid by service industry business on behalf of persons employed or otherwise affiliated with the service industry business; and

(4) Tax paid under Section 67-4-402.

67-4-2207. The tax herein levied shall be in addition to all other taxes, and no credit shall be allowed against the tax, except as provided in Section 67-4-2206(c); provided, that payments or charges refunded or credited to a customer, or any bad debt that the service industry business or its agent has been unable to collect after the exercise of diligent efforts, may be deducted from gross revenue reported on the service industry business's return for the tax period in which the refund, credit, or bad debt write-off occurred, but only to the extent that such refund, credit, or transaction resulting in a bad debt was included in gross revenue reported on a prior service business gross revenue tax return. Any payment for a properly determined bad debt that has been deducted from taxable gross revenue reported on a return shall be added to gross revenue reported on the return filed for the period in which the payment was received. In no case shall any reduction in taxes occasioned by a deduction allowed by this section be refunded.

67-4-2208. (a) Gross revenue from taxable services is subject to the tax levied by this part if:

- (1) The service is performed wholly in Tennessee;
- (2) The service is performed both inside and outside Tennessee, and the service performed outside Tennessee is incidental to the service performed in Tennessee; or
- (3) The service is performed both inside and outside Tennessee, and the benefit of the service performed is received wholly in Tennessee.

(b) Notwithstanding the provisions of subsection (a), if the service is performed both inside and outside Tennessee and the benefit of the service is received both inside and outside Tennessee, the gross revenue subject to the tax levied by this part shall be measured by the ratio that the time spent in performing such service in Tennessee bears to the total time spent in performing such service everywhere.

67-4-2209. (a) The tax levied under this part shall be due and payable monthly, and a service industry business shall file its service industry business gross revenue tax return with the commissioner on or before the twentieth (20th) day of the month immediately subsequent to the month covered by the return.

(b) The commissioner may require service industry businesses subject to the tax levied by this part to submit service industry business gross revenue tax returns, related documents, and payments by electronic means. In addition to any other penalty provided by law, the commissioner may assess a five hundred dollar (\$500) penalty against any service industry business required to file returns and related documents or make payments by electronic means, for each instance of filing or making payment by any other means.

(c) Upon proper application by a service industry business on a form prescribed by the commissioner, the commissioner is authorized to permit quarterly filing and payment dates in those instances where the commissioner deems it to be in the best interest of the state to do so.

(d) For good cause, the commissioner may revoke an authorization previously granted to a service industry business under subsection (c); provided, that such revocation shall be prospective only.

67-4-2210. (a) If a service industry business has liquidated, dissolved, gone out of business, or otherwise terminated and has refused or failed to pay the tax levied under this part, the commissioner shall collect the tax, together with any related penalty and interest, from any officer, stockholder, partner, member, principal, or employee who has received property belonging to the service industry business; provided, that such collection shall be limited to the value of the property received.

(b) The commissioner is empowered to certify to the secretary of state the name of any service industry business that fails or refuses to file any statement or return or to pay any fee or tax herein required; provided, that no certification shall be issued until such statement, return, or tax has remained delinquent for a period of more than ninety (90) days.

(c) At the time of such certification to the secretary of state, the commissioner shall give notice to the service industry business of the action taken. Thereupon, the charter or certificate of such service industry business or its domestication in Tennessee shall stand as automatically dissolved or revoked, and the secretary of state shall note such revocation or dissolution upon the secretary of state's records.

(d) At any time after the date of revocation or dissolution, such charter, certificate or domestication may be reinstated upon the filing of all service industry business gross revenue tax returns and the payment of all fees, taxes, interest and penalties due the state, provided that the title has not been taken by another business entity.

67-4-2211. All revenues received by the commissioner from the tax levied by this part and any related interest or penalties shall be deposited in the state's general fund.

67-4-2212. (a) If any service industry business liable for any tax, interest or penalty levied hereunder shall sell out, quit, or cease its service business, such service industry business shall make a final return and payment of the taxes due within twenty (20) days after the date of selling, quitting or ceasing its business.

(b)(1) The service industry business's successor, successors, or assigns, if any, shall withhold sufficient amounts of the purchase money to cover the amount of such taxes, interest and penalties due and unpaid until the former owner shall produce a certificate or receipt from the commissioner stating that all gross revenue taxes, interest and penalties due have been paid. If the purchaser of a service industry business fails to withhold the purchase money as above provided, such purchaser shall be personally liable for the payment of the taxes, interest and penalties accruing and unpaid on account of the operation of the service industry business by any former owner, owners or assigns unless released by the department as hereinafter provided.

(2) A purchaser who, in good faith and without knowledge of any false statement therein, obtains a sworn statement from the seller stating the amount of gross revenue taxes, interest and penalties due to the department and tenders such statement to the department's tax enforcement division by certified mail or by personal service, shall be released from any liability for any tax, interest, or penalties in excess of the total amount stated on the seller's sworn statement unless, within fifteen (15) days of the department's receipt of the seller's statement, the department notifies the purchaser of the correct liability by mail to the return address provided. The seller's sworn statement shall also serve as authorization for the department to advise the purchaser of any service industry business gross revenue tax liability that the seller may have to the department.

(3) The amount of liability of the purchaser of a service industry business for the taxes and related interest and penalties levied herein shall not exceed the amount of the purchase money paid by the purchaser to the seller in good faith and for full and adequate consideration in money or money's worth. "Purchase money," as used in this subdivision, includes cash paid, purchase money notes given by purchaser to seller, the cancellation of the seller's indebtedness to the purchaser, the fair market value of property or other consideration given by purchaser to seller; and shall not be increased or decreased by indebtedness of the seller either taken or assumed by the purchaser when a tax lien has not been filed.

67-4-2213. It is the duty of every service industry business required to make a report and pay any tax or related interest or penalty under this part, to keep and preserve suitable records of the gross revenue taxable under this part, to maintain such other books of account as may be necessary to determine the amount of tax due, and any other tax-related information that the commissioner may require. It is also the duty of every such service industry business to keep and preserve, until such time as the period for making an assessment has expired under Section 67-1-1501(b), all invoices and other records related to taxation under this part. All such books, invoices, and other records shall be open to examination at all reasonable hours to the commissioner or any authorized agents of the commissioner.

SECTION 26. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 27. Sections 2 through 24 of this act shall take effect August 1, 2001, the public welfare requiring it. Section 25 of this act shall take effect January 1, 2002, the public welfare requiring it and shall apply to all tax years beginning on or after January 1, 2002. All other sections of this act shall take effect upon becoming a law, the public welfare requiring it.

Rep. Newton moved the previous question on Amendment No. 3, which motion prevailed.

On motion, Amendment No. 3 failed by the following vote:

Ayes	12
Noes	76
Present and not voting	3

Representatives voting aye were: Baird, Buck, Caldwell, Ford, McKee, Montgomery, Patton, Sharp, Shepard, Turner (Davidson), Winningham, Wood -- 12.

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Representatives voting no were: Armstrong, Arriola, Beavers, Bittle, Bone, Bowers, Boyer, Briley, Brooks, Brown, Bunch, Buttry, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Fowlkes, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Kisber, Langster, Lewis, McDaniel, McDonald, McMillan, Miller, Mumpower, Newton, Odom, Overbey, Phelan, Phillips, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sargent, Shaw, Stanley, Tindell, Towns, Turner (Hamilton), Turner (Shelby), Vincent, Walker, West, Westmoreland, White, Williams, Windle, Mr. Speaker Naifeh -- 76.

Representatives present and not voting were: Black, Fraley, McCord -- 3.

A motion to reconsider was tabled.

REQUEST TO CHANGE VOTE

Pursuant to **Rule No. 31**, the following member(s) desire to change their original stand from not voting to aye on Amendment No. 3 to House Bill No. 1781 and have this statement entered in the Journal: Rep(s). Maddox.

SUPPLEMENTAL REGULAR CALENDAR, CONTINUED

Rep. Arriola moved that Amendment No. 4 be withdrawn, which motion prevailed.

Rep. Arriola moved that Amendment No. 5 be withdrawn, which motion prevailed.

Rep. Rhinehart moved that Amendment No. 6 be withdrawn, which motion prevailed.

Rep. Davidson moved adoption of Amendment No. 2 as follows:

Amendment No. 2

AMEND House Bill No. 1781 by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-6-202(a), is amended by deleting the language "six percent (6%)", and by substituting instead the language "six and one-half percent (6.50%)".

SECTION 2. Tennessee Code Annotated, Section 67-6-203(a), is amended by deleting the language "six percent (6%)", and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202".

SECTION 3. Tennessee Code Annotated, Section 67-6-204, is amended by deleting the language "six percent (6%)" wherever it appears in subsections (a) and (c), and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202".

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SECTION 4. Tennessee Code Annotated, Section 67-6-205(a), is amended by deleting the language "six percent (6%)", and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202".

SECTION 5. Tennessee Code Annotated, Section 67-6-103, is amended by adding the following new subsection:

() Notwithstanding the provisions of this section to the contrary, all revenue generated from the increase in the rate of the state sales and use tax and the imposition of sales and use taxes on services pursuant to the provisions of this act shall be deposited in the state general fund and no funds generated from such rate increase or taxes imposed on services shall be distributed pursuant to the provisions of (a) through (f) of this section.

SECTION 6. Tennessee Code Annotated, Section 67-4-2007(a), is amended by deleting the language "six percent (6%)" and by substituting instead the language "six and one-half percent (6.5%)".

SECTION 7. Tennessee Code Annotated, Section 67-4-2015, is amended by adding the following new subsections immediately after subsection (f) and by re-lettering the remaining subsections accordingly:

() Notwithstanding any other law to the contrary, a taxpayer filing a franchise and excise tax return for a tax period ended on or after December 31, 2001, but before December 31, 2002, shall not be penalized if each of its quarterly estimated payments equal twenty-five percent (25%) of seventy percent (70%) of its final tax liability for the tax year.

() Notwithstanding any other law to the contrary, a taxpayer filing a franchise and excise tax return for a tax period ended on or after December 31, 2001, but before April 1, 2002, and that has quarterly estimated payments due before August 1, 2001, who after having timely made such payments finds that, because of amendments to the law made by the General Assembly during the 2001 session, one or more of such payments may fall below twenty-five percent (25%) of seventy percent (70%) of the final franchise and excise tax liability for the tax year, may avoid being penalized if any shortage is made up by the due date of the next quarterly payment falling due after August 1, 2001; provided, however, that in the event that all of the required quarterly payments have been timely made before August 1, 2001, the taxpayer may still avoid being penalized if any shortage is made up no later than August 15, 2001.

SECTION 8. Tennessee Code Annotated, Section 67-4-2015, is amended by adding the following language as a new subsection at the end of the Section:

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() Notwithstanding any other law to the contrary, for tax years beginning on or after August 1, 2000, but before May 1, 2001, the commissioner of revenue is authorized to waive, in whole or in part, any statutory penalty assessed for the delinquent filing or deficient payment of any quarterly estimated franchise and excise tax payment due for such tax year, if in the judgment of the commissioner or the commissioner's delegate the taxpayer has acted reasonably and has made a good faith effort to comply with the statutory provisions of this section.

SECTION 9. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 10. Sections 1-5 inclusive of this act shall take effect on August 1, 2001, the public welfare requiring it. Section 6 of this act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to all tax years ending on or after June 30, 2001. All other sections of this act shall take effect on becoming a law, the public welfare requiring it.

Rep. Newton moved the previous question on Amendment No. 2, which motion failed by the following vote:

Ayes	51
Noes	41
Present and not voting	1

Representatives voting aye were: Bittle, Bone, Bowers, Briley, Brown, Buck, Buttry, Cole (Dyer), Curtiss, Davis (Cocke), DeBerry L, Fitzhugh, Ford, Fowlkes, Fraley, Givens, Head, Hood, Johnson, Jones S, Jones U, Langster, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Newton, Patton, Phelan, Phillips, Pruitt, Rhinehart, Rinks, Roach, Scroggs, Sharp, Shaw, Shepard, Tindell, Turner (Hamilton), Vincent, Walker, Westmoreland, White, Whitson, Williams, Wood, Mr. Speaker Naifeh -- 51.

Representatives voting no were: Armstrong, Baird, Beavers, Black, Boyer, Bunch, Chumney, Clem, Cole (Carter), Cooper, Davis (Washington), DeBerry J, Dunn, Ferguson, Garrett, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Kent, Kernell, Kisber, Lewis, Maddox, Mumpower, Odom, Overbey, Pleasant, Rowland, Sands, Sargent, Stanley, Tidwell, Todd, Towns, Turner (Shelby), Turner (Davidson), West, Windle -- 41.

Representatives present and not voting were: Arriola -- 1.

After further debate, Rep. Rhinehart moved the previous question on Amendment No. 2, which motion prevailed by the following vote:

Ayes	62
Noes	29

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Representatives voting aye were: Armstrong, Arriola, Bittle, Bone, Bowers, Boyer, Briley, Brown, Buck, Cole (Dyer), Curtiss, Davis (Cocke), DeBerry L, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Givens, Goins, Head, Hood, Johnson, Jones S, Jones U, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McKee, McMillan, Miller, Montgomery, Newton, Odom, Patton, Phelan, Phillips, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Sargent, Scroggs, Sharp, Shaw, Shepard, Tindell, Turner (Hamilton), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Williams, Wood, Mr. Speaker Naifeh -- 62.

Representatives voting no were: Baird, Beavers, Black, Bunch, Chumney, Clem, Cole (Carter), Cooper, Davis (Washington), DeBerry J, Garrett, Godsey, Hagood, Hargett, Hargrove, Harwell, Kent, Kernell, McDonald, Mumpower, Overbey, Pleasant, Rowland, Stanley, Tidwell, Todd, Towns, Turner (Shelby), Windle -- 29.

On motion, Amendment No. 2 failed by the following vote:

Ayes	32
Noes	62
Present and not voting	1

Representatives voting aye were: Arriola, Bone, Boyer, Buck, Buttry, Curtiss, Davidson, Ferguson, Ford, Fraley, Garrett, Hagood, Hargett, Hood, Johnson, McCord, McDonald, Montgomery, Overbey, Patton, Pleasant, Rhinehart, Roach, Sands, Sargent, Sharp, Shepard, Stanley, Todd, Williams, Winningham, Wood -- 32.

Representatives voting no were: Armstrong, Baird, Beavers, Bittle, Black, Bowers, Briley, Brooks, Brown, Caldwell, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Fitzhugh, Fowlkes, Givens, Godsey, Goins, Hargrove, Harwell, Head, Jones S, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McDaniel, McMillan, Miller, Mumpower, Odom, Phelan, Phillips, Pruitt, Ridgeway, Rinks, Rowland, Scroggs, Shaw, Tindell, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Mr. Speaker Naifeh -- 62.

Representatives present and not voting were: Bunch -- 1.

A motion to reconsider was tabled.

BILL RE-REFERRED

Rep. Rinks moved that House Bill No. 1781 be re-referred to the House Finance, Ways and Means Committee, which motion prevailed.

REMARKS

Rep. Turner (Hamilton) requested that the following remarks be spread upon the Journal:

REMARKS CONCERNING VOTE ON HOUSE BILL NO. 1781

Today, one of the most regressive tax proposals was presented as an amendment to House Bill No. 1781. Representative Davidson's Amendment No. 2 is harmful because it takes more of their hard-earned dollars and places them into an increased revenue budget. More of their income would be spent on sales tax and no tax deduction is allowed. I support a decrease in the sales tax and a removal of sales tax. Also, we need to reform our tax structure in Tennessee and allow our people to have a deduction on their income and another deduction on their federal income. Sales tax does not allow federal of state deductions. I am pleased that the amendment was defended almost two to one.

MESSAGE CALENDAR

HOUSE ACTION ON SENATE AMENDMENTS

***House Bill No. 1828** -- Private Protective Services - Removes requirement that armed private security guards/officers must obtain written directive from chief law enforcement officer in county in which they operate. Amends TCA Title 62, Chapter 35, Part 1. by *West. (SB1878 by *Rochelle)

Senate Amendment No. 2

AMEND House Bill No. 1828 By adding the following new sections to precede the effective date section:

SECTION ____: Tennessee Code Annotated, Section 62-35-103, is amended by deleting the word "or" at the end of subdivision (11); by deleting the period at the end of subdivision (12) and substituting instead a semi-colon and the word "or"; and by adding the following language as a new subdivision to be designated as follows:

(13)(A) One (1) designated employee per business location of a private company, firm, partnership, or corporation that is not a contract security company or proprietary security organization whose duties include those of an unarmed security guard/officer during nonbusiness hours.

(B) Pursuant to this subdivision, no person, while performing any function of a security guard and patrol service during non-business hours, shall:

(i) Wear or display any badge, insignia, shield, patch or pattern which:

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(a) Indicates or tends to indicate that such person is a sworn peace officer;

(b) Contains or includes the word "police" or the equivalent thereof; or

(c) Is similar in wording to any law enforcement agency in this state; or

(ii) Have or utilize any vehicle or equipment which:

(a) Displays the words "police," "law enforcement officer," or the equivalent thereof; or

(b) Has any sign, shield, accessory or insignia that may indicate that such vehicle or equipment belongs to a public law enforcement agency.

SECTION _____. Tennessee Code Annotated, Title 62, Chapter 35, Part 1, is amended by adding a new section thereto, as follows:

Section 62-35-139. No person who is exempt from the licensing requirements of this chapter pursuant to Section 62-35-103(13) shall perform any private protective services duties at a shopping center complex or other business facility that has two (2) or more contiguous businesses. A person performing private protective services pursuant to Section 62-35-103(13) shall perform such services solely upon the premises of the business of such person's employer.

Rep. West moved that the House concur in Senate Amendment(s) No(s). 2 to **House Bill No. 1828**, which motion prevailed by the following vote:

Ayes	86
Noes	7
Present and not voting	1

Representatives voting aye were: Armstrong, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Buck, Buttry, Caldwell, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Langster, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Overbey, Patton, Phelan, Phillips, Pleasant, Pruitt, Rhinehart, Ridgeway, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Williams, Windle, Winningham, Wood -- 86.

Representatives voting no were: Arriola, Briley, Brooks, Brown, Ferguson, Kisber, Lewis -- 7.

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Representatives present and not voting were: Odom -- 1.

A motion to reconsider was tabled.

MESSAGE FROM THE SENATE

July 7, 2001

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 463; for the signature of the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk.

SIGNED

July 7, 2001

The Speaker signed the following: Senate Joint Resolution(s) No(s). 463.

ENROLLED BILLS

July 7, 2001

The following bills have been compared, enrolled, and are ready for the signature(s) of the Speaker(s): House Bills(s) No(s). 1828.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

SIGNED

July 7, 2001

The Speaker signed the following: House Bill(s) No(s). 1828.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

MESSAGE FROM THE SENATE

July 7, 2001

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 1828; signed by the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk.

ROLL CALL

The roll call was taken with the following results:

Present 96

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Representatives present were: Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones S, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Williams, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 96.

RECESS MOTION

On motion of Rep. Davidson, the House stood in recess until 1:00 p.m., Monday, July 9, 2001.